

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

COY PHELPS  
Plaintiff

-v-

DAVID WINN, et.al.  
Defendants

)  
( Case No: 4:05-cv-40003-GAO  
)  
( MOTION TO COMPEL DISCOVERY  
) OR IN THE ALTERNATIVE  
( MOTION TO IMPOSE SANCTIONS  
)  
(  
)

PURSUANT to 28 USC §1361 and Rule 26 of the Federal Rules of Civil Procedures, the above Plaintiff COY PHELPS moves this court to compel the defendants in this action to produce discovery or impose sanctions on the defendants for refusing to provide discovery in the above case.

On 9-27-2007 the defendants moved the court to stay discovery. On 11-20-2007, the court denied the motion to stay discovery and indicated that a discovery conference should be held pursuant to Rule 26(f) of the Federal Rules of Civil Procedures.


The defendants have continuously refused to respond to Phelps' requests for admissions and have continuously refused to answer interrogatories.

Phelps wrote a letter to the defendant's counsel reminding her of the discovery conference but the counsel has refused to respond.

The case cannot proceed without discovery and the dilatory conduct of the defendants places a substantial burden on Phelps.

Phelps is fearful that the court will dismiss the case for failing to prosecute unless some command of the court is not issued.

DATE: 6/23/2008

  
\_\_\_\_\_  
COY PHELPS 78872-011  
FMC-DEVENS  
P.O. BOX 879  
AYER, MASSACHUSETTS  
01432

In Pro Se

CERTIFICATE OF SERVICE

I, COY PHELPS, certify under penalty of perjury, pursuant to 28 USC 1746, that I placed a copy of this action into separate correctly addressed envelopes, affixed with proper and adequate first-class U.S. Postage, and deposited the pre-paid envelopes into the prison mail-box, or gave the pre-paid envelopes to a prison official, on the date indicated below, to be delivered to the following:

1. SONYA A. RAO, AUSA, U.S. Attorneys Office, 1 Courthouse Way,  
Suite 9200, Boston, Massachusetts, 02210 OR  
JENNIFER BOAL, AUSA, US Attorney's Office, 1 Courthouse Way,  
Suite 9200, Boston, Massachusetts 02210

2.

3.

4.

5.

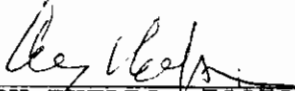
6.

7.

8.

9.

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HOUSTON v LACK, 1988, 487 US 266 ( papers deemed filed when deposited in a prison mail-box or given to a prison official.)  
WILLIAMS v WADE, WD Wis 2005, 354 FS2d 894 ( Rule applies to Service of Process also.)